

Application Serial No. 10/560,962
Attorney Docket No. 10191/4593
Reply to Office Action of December 18, 2007

AMENDMENTS TO THE DRAWINGS:

The accompanying Replacement Sheets are for Figs. 2 and 3, and replace the original sheets. In Figs. 2 and 3, labels have been added. No new matter has been added. Approval and entry are respectfully requested.

Attachments: 2 Replacement Sheets

REMARKS

Claims 32, 33, 35, and 46-48 have been canceled without prejudice, and therefore claims 29-31, 34, 36-45, and 49-56 are now pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

As requested, the drawings now include labels. Approval and entry are respectfully requested.

Claims 29-33, 35, 40, 44-46, 48-51, and 53-55 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,615,366 (“Grochowski”).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Final Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 29, as presented, has been rewritten so that it is to a processor system, including: at least two execution units; a memory; and a switch-over unit for switching between at least two operating modes of the processor system, *in which a switching between the at least two operating modes of the processor system is performed by accessing a predefined memory address, and in which at least one program memory region is exclusively assigned to a first one of the at least two operating modes, and at least a second program memory region is*

exclusively assigned to a second one of the at least two operating modes.

Even if the “Grochowski” reference were to refer to a processor with dual execution cores that may be switched between high reliability and high performance execution modes, the “Grochowski” reference does not identically disclose (nor suggest) the switchover feature, as provided for in the context of the claimed subject matter of claim 29. Further, the “Grochowski” reference does not identically disclose (nor suggest) the claim 29 feature in which *a switching between the at least two operating modes of the processor system is performed by accessing a predefined memory address, and in which at least one program memory region is exclusively assigned to a first one of the at least two operating modes, and at least a second program memory region is exclusively assigned to a second one of the at least two operating modes*, as provided for in the context of the claimed subject matter.

At best, the “Grochowski” reference may refer to providing instructions and data to execution cores 110 from a memory system 270 with a cache 280 to which results from executed instructions are written. Col. 5, lines 8-11. Still further, even if the “Grochowski” reference were to refer to different types of code, which may be in different regions of memory, the “Grochowski” reference does not identically disclose (nor suggest) the feature in which *a switching between the at least two operating modes of the processor system is performed by accessing a predefined memory address, and in which at least one program memory region is exclusively assigned to a first one of the at least two operating modes, and at least a second program memory region is exclusively assigned to a second one of the at least two operating modes*, as provided for in the context of the claimed subject matter.

Accordingly, claim 29, as presented, is allowable as are its dependent claims 30, 31, and 40.

Claim 44 includes features like those of claim 29, as presented, and is therefore allowable for essentially the same reasons. Accordingly, claim 44 is allowable as are its dependent claims 45, 46, 49-51, and 53-55.

Claims 34, 36-39, 41-43, 47, 52, and 56 were rejected under 35 U.S.C. 103(a) as being unpatentable over “Grochowski.”

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine

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reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 34, 36-39, and 41-43 depend from claim 29, and are therefore allowable for the same reasons as claim 29. This is because the “Grochowski” reference does not overcome — and is not asserted to overcome — the critical shortcomings of the “Grochowski” reference as applied to claim 29, as explained above.

Claims 52 and 56 depend from claim 44, as presented, and are therefore allowable for essentially the same reasons as claim 29, since the “Grochowski” reference does not overcome — and is not asserted to overcome — the critical shortcomings of the “Grochowski” reference as to claim 29.

In summary, all of pending claims 29-31, 34, 36-45, and 49-56 are allowable.

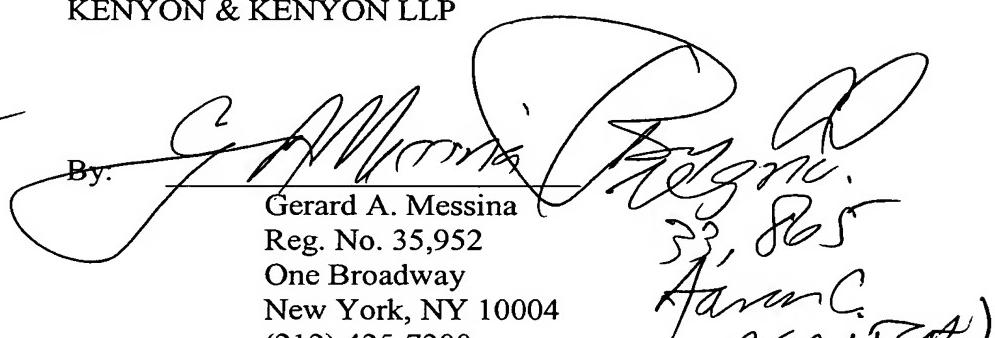
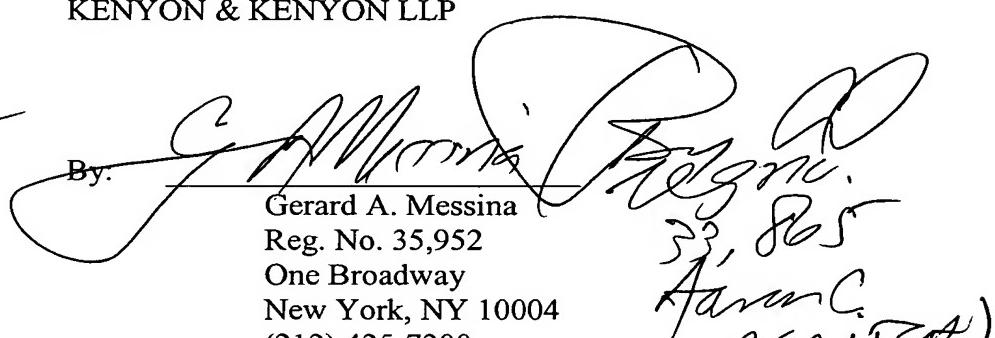
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Conclusion

In view of the foregoing, it is respectfully submitted that all pending claims 29-31, 34, 36-45, and 49-56 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,
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